

Exhibit 5 to Exhibit A

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PAUL SHEN, 30(b)(6) - 1/18/2013

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

--oOo--

MOTOROLA MOBILITY, INC. and)	
GENERAL INSTRUMENT)	
CORPORATION,)	
Plaintiffs,)	
vs.)	No. 5:11-0053-JRG
TIVO, INC.,)	
Defendant.)	
<hr/>		
TIVO, INC.,)	
Counterclaim)	
Plaintiff,)	
vs.)	
MOTOROLA MOBILITY, INC.,)	
GENERAL INSTRUMENT)	
CORPORATION, TIME WARNER CABLE)	
INC., and TIME WARNER CABLE)	
LLC,)	
Counterclaim)	
Defendants.)	
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VIDEOTAPED 30(b)(6) DEPOSITION OF MOTOROLA
AND PERSONAL DEPOSITION OF PAUL SHEN

JANUARY 18, 2013

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REPORTED BY: SARAH LUCIA BRANN, CSR 3887

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09:10:07	1	Q. What kind?	09:13:02	1	Q. Do you remember roughly what the fee was?
09:10:08	2	A. Go back to -- portable live transmission	09:13:04	2	A. Roughly about \$70,000.
09:10:11	3	devices.	09:13:06	3	Q. \$70,000?
09:10:19	4	Q. Can you elaborate on that?	09:13:07	4	A. Yeah.
09:10:21	5	A. Okay. You know news van, satellite news	09:13:14	5	Q. Is there any type of bonus or --
09:10:26	6	van? Whenever it's breaking news, people send out a	09:13:18	6	A. No.
09:10:29	7	news van. And instead of using a big news van, we	09:13:19	7	Q. -- additional payment if the case goes
09:10:35	8	create a small backpack and transmit the same live	09:13:22	8	Motorola's way?
09:10:38	9	video signal, HD signal, back to the TV station.	09:13:24	9	A. No.
09:10:44	10	Q. Is this a product that's available to be	09:13:24	10	(Deposition Exhibit 1
09:10:46	11	purchased by --	09:13:24	11	was marked for identification.)
09:10:49	12	A. All the major networks, from ABC, CBS,	09:13:57	12	MR. YORKS: Q. Sir, you have been handed
09:10:52	13	NBC, CNN, all using this product. It's deployed	09:13:59	13	what's been marked as Exhibit Number 1, which is
09:10:59	14	over 60 countries. Over 2,000 units have been	09:14:01	14	titled "TiVo's Second Notice of Deposition of
09:11:02	15	deployed.	09:14:07	15	Motorola Pursuant to Rule 30(b)(6)."
09:11:02	16	(Clarification requested by reporter.)	09:14:10	16	Have you ever seen this document before?
09:11:02	17	THE WITNESS: 60 countries.	09:14:16	17	A. Yes, I believe so.
09:11:03	18	MR. YORKS: Q. Is this a privately held	09:14:18	18	Q. And if you look at page nine of the
09:11:06	19	company?	09:14:35	19	document, there's a heading "Topics for
09:11:06	20	A. Yes.	09:14:38	20	Examination."
09:11:17	21	Q. I am sorry. I didn't catch the name. The	09:14:42	21	Do you see that?
09:11:21	22	new company is Tune?	09:14:43	22	A. Yes.
09:11:22	23	A. TVU --	09:14:44	23	Q. And then if you go to page 19, there's
09:11:24	24	Q. TVU. I am sorry.	09:14:56	24	topics. And is it your understanding -- or do you
09:11:25	25	A. -- Networks. Right here.	09:15:01	25	understand that you have been designated by Motorola
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09:11:37	1	Q. Does TVU have any type of relationship	09:15:03	1	to testify regarding topics 81 through 83, 85
09:11:39	2	with Motorola?	09:15:10	2	through 89, 93 through 97, and 111?
09:11:40	3	A. No.	09:15:15	3	A. Yes.
09:12:01	4	Q. Have you been retained by Motorola or	09:15:19	4	Q. Do you understand you have also been
09:12:05	5	Motorola's counsel in this matter?	09:15:20	5	noticed for a deposition individually, so that you
09:12:07	6	A. No. Just for this, finding this	09:15:24	6	are to testify about any knowledge that you have
09:12:15	7	information.	09:15:25	7	personally?
09:12:16	8	Q. You haven't been retained as a consultant	09:15:26	8	A. Yes.
09:12:18	9	by Motorola or Motorola's counsel?	09:15:26	9	(Deposition Exhibit 2 and Exhibit 3
09:12:22	10	A. I have to ask --	09:15:26	10	were marked for identification.)
09:12:28	11	Q. Are you being paid for your time today,	09:16:17	11	MR. YORKS: Q. Sir, you have been handed
09:12:30	12	sir?	09:16:19	12	two documents. The first one has been marked
09:12:30	13	A. I am being paid for today's time as a --	09:16:21	13	Exhibit Number 2, and it's US Patent Number
09:12:35	14	yeah, for this case. Not -- just specific for this	09:16:24	14	6,304,714. And the second document has been marked
09:12:38	15	case, yes.	09:16:28	15	as Exhibit Number 3, and it is US Patent Number
09:12:39	16	Q. And is there an hourly rate that you are	09:16:32	16	5,949,948.
09:12:41	17	charging?	09:16:35	17	And let's start with the Exhibit Number 2.
09:12:42	18	A. Yes.	09:16:38	18	And if it's okay, I am going to refer to this patent
09:12:42	19	Q. What is the hourly rate?	09:16:41	19	as the '714 patent, which is the last three digits.
09:12:44	20	A. I don't remember. It's a flat -- it was a	09:16:46	20	Is that okay?
09:12:47	21	flat -- it's a flat -- a number of consulting hours.	09:16:47	21	Have you ever seen this patent before,
09:12:54	22	Q. Oh, there is a flat fee?	09:16:49	22	sir?
09:12:57	23	A. For a certain number of hours.	09:16:49	23	A. Yes.
09:12:59	24	Q. And how many hours?	09:16:53	24	Q. When is the last time that you reviewed
09:13:00	25	A. I don't remember the exact number.	09:16:55	25	this patent?

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10:28:06	1	much has been implemented. But we did something,	10:31:08	1	MR. YORKS: Q. And was there a Peter
10:28:12	2	just didn't finish it.	10:31:10	2	Vandergracht at Imedia?
10:28:13	3	Q. So, to your knowledge, Imedia never had a	10:31:12	3	A. Yes.
10:28:18	4	prototype which could receive an incoming broadcast	10:31:13	4	Q. And who was he?
10:28:22	5	program, store it on the drive, and then play back	10:31:16	5	A. He was brought in as replacement for Efi
10:28:26	6	that program and perform trick modes in the	10:31:26	6	Arazi.
10:28:29	7	prototype?	10:31:27	7	Q. So he became the CEO of Imedia?
10:28:30	8	A. That's correct.	10:31:30	8	A. Yes.
10:28:38	9	Q. When did Imedia first learn about TiVo?	10:31:31	9	Q. Replacing Efi Arazi?
10:28:51	10	A. I don't remember exactly the date. I	10:31:34	10	A. Yes.
10:28:52	11	remember I read some newspaper articles.	10:31:35	11	Q. Do you recall whether Efi Arazi, I mean,
10:29:04	12	Q. Did you have any impression or thought	10:31:37	12	Peter Vandergracht ever approached TiVo about
10:29:05	13	about the TiVo products relative to Imedia?	10:31:41	13	licensing or infringement of Imedia patents?
10:29:16	14	A. I remember I said, "Gee, exactly what we	10:31:45	14	A. Not that I am aware of. Efi -- I mean, he
10:29:19	15	want to do."	10:31:48	15	is not telling -- he didn't tell me everything he
10:29:19	16	And also we were saying -- comment -- I	10:31:51	16	was doing, so...
10:29:24	17	was commenting about Geoffrey Yang. He, at the time	10:31:52	17	(Deposition Exhibit 10
10:29:29	18	when we pitched to him, he doesn't think it's a big	10:32:05	18	was marked for identification.)
10:29:36	19	deal, and kind of like his investing.	10:32:13	19	MR. YORKS: Q. Mr. Shen, you have been
10:29:37	20	THE REPORTER: He doesn't think it's?	10:32:14	20	handed what's been marked Exhibit Number 10, Bates
10:29:37	21	THE WITNESS: It was a big deal. He did	10:32:18	21	TIVO-T53-MOT-0007292. This is an email to a Stewart
10:29:38	22	not believe -- say it was a big market, an easy	10:32:29	22	Alsop, and then there is a cc to Peter Vandergracht,
10:29:44	23	market for the consumer product.	10:32:32	23	Imedia. Is that the Peter Vandergracht you just
10:29:47	24	MR. YORKS: Q. Did Imedia believe that	10:32:37	24	testified about?
10:29:53	25	TiVo infringed its patents?	10:32:40	25	A. Hmm?
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10:29:57	1	MR. CUNNINGHAM: Objection.	10:32:41	1	Q. Is that the Peter --
10:29:57	2	THE WITNESS: Yes.	10:32:43	2	A. Yes.
10:29:58	3	MR. CUNNINGHAM: Calls for a legal	10:32:44	3	Q. The Peter Vandergracht here, is that the
10:29:59	4	conclusion. You can answer.	10:32:47	4	CEO of Imedia?
10:30:00	5	THE WITNESS: We believe so, yes.	10:32:49	5	A. Yes.
10:30:02	6	MR. YORKS: Q. And when did you believe	10:32:56	6	Q. The email states, "We are investors in a
10:30:04	7	that TiVo infringed patents?	10:32:58	7	company called Imedia that enables extreme video
10:30:07	8	A. We -- when we heard that they funded that	10:33:03	8	compression. Thought that there might be synergies
10:30:11	9	company, we said, you know, we have the patent.	10:33:07	9	with TiVo," period. Do you see that?
10:30:16	10	That's exactly what we thought it was.	10:33:10	10	A. Yes.
10:30:18	11	Q. Would that be approximately 1999?	10:33:10	11	Q. Do you recall any discussions in Imedia
10:30:23	12	A. I don't remember exact date.	10:33:13	12	about synergies with TiVo?
10:30:25	13	Q. Roughly?	10:33:17	13	A. No.
10:30:25	14	A. When we saw the press release or some news	10:33:22	14	Q. You don't recall any discussions at Imedia
10:30:30	15	articles. I don't remember exactly.	10:33:23	15	about TiVo?
10:30:38	16	Q. Did Imedia ever approach TiVo about	10:33:25	16	A. No. Peter came in very short. Really,
10:30:43	17	licensing Imedia patents?	10:33:33	17	they don't know much about the company.
10:30:48	18	A. I wasn't involved on that side anymore, on	10:33:41	18	Q. Now, you said that, when you saw the press
10:30:51	19	the legal side, so...	10:33:43	19	release on TiVo, that you thought that TiVo may be
10:30:54	20	Q. Who would that have been?	10:33:53	20	infringing the Imedia patent; is that correct?
10:30:56	21	A. I don't -- it has to be Efi Arazi, the	10:33:55	21	A. Yes.
10:31:03	22	CEO.	10:33:55	22	Q. And were you employed at Imedia at that
10:31:04	23	(Clarification requested by reporter.)	10:33:56	23	time?
10:31:04	24	THE WITNESS: Efi Arazi, E-f-i, Arazi,	10:33:57	24	A. Yes.
10:31:05	25	A-r-a-z-i.	10:33:57	25	Q. You testified that you left Imedia in

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11:14:40 1 belief; is that correct?
 11:14:42 2 A. Either direction, whether he provided or
 11:14:44 3 he didn't provide. I don't know.
 11:14:59 4 Q. Did Imedia ever contemplate filing a
 11:15:06 5 lawsuit against TiVo?
 11:15:15 6 A. We were so focused on the cable StatMux
 11:15:21 7 CherryPick product, we didn't have any attention at
 11:15:30 8 the time on the PVR side. So we know they violate
 11:15:46 9 our patent, but we did not, say, actively go after
 11:15:50 10 them.
 11:15:51 11 And it's a big distraction. The company
 11:15:53 12 did not have a lot of money to do anything, so we
 11:16:00 13 never sought out that.
 11:16:06 14 Q. So Imedia never bothered with filing any
 11:16:13 15 type of action against TiVo, because it was focused
 11:16:16 16 on a different product?
 11:16:18 17 A. At the time, yes.
 11:16:19 18 MR. CUNNINGHAM: Objection. Form.
 11:16:21 19 MR. YORKS: Q. This is in 1999, roughly;
 11:16:23 20 correct?
 11:16:23 21 A. Yes.
 11:16:36 22 Q. Was the belief that TiVo may infringe the
 11:16:44 23 Imedia patents communicated to Terayon?
 11:16:49 24 A. I don't recall. It was too short, so I
 11:16:51 25 really didn't have a chance to sit down, discuss all

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11:18:27 1 a coffee table, in a glass, encased. But I don't
 11:18:32 2 know where it is.
 11:18:33 3 Q. But do you think it exists?
 11:18:35 4 A. I -- you know, once it goes through two
 11:18:39 5 hands, three hands, no, I don't know where it is.
 11:18:42 6 Q. Oh, because it went to Terayon and
 11:18:45 7 Motorola?
 11:18:45 8 A. Yeah, exactly. Now Google. And who knows
 11:18:47 9 where it is? Lots of excess movement. Not many
 11:18:52 10 people really understand, because you see like a PC,
 11:18:54 11 computer, so...
 11:18:56 12 Q. But you understand that the code relative
 11:18:58 13 to the Imedia prototype was produced in this case?
 11:19:02 14 A. Yes.
 11:19:04 15 Q. Okay. And I guess that must have been
 11:19:11 16 kept, then, from Imedia to Terayon; is that correct?
 11:19:14 17 A. No, I --
 11:19:16 18 Q. Do you know where that code came from?
 11:19:18 19 A. I have archived tapes.
 11:19:21 20 Q. You do?
 11:19:22 21 A. I do.
 11:19:22 22 Q. Which is probably what you are going to be
 11:19:24 23 discussing.
 11:19:29 24 Okay. Can you tell me -- these tapes that
 11:19:32 25 you have, you have kept them personally all these

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11:16:54 1 the detail, what intellectual property TVU had. Not
 11:17:03 2 TVU. Imedia at the time.
 11:17:06 3 Q. Do you know whether there was any type of
 11:17:09 4 legal analysis on whether TiVo infringed any of the
 11:17:13 5 Imedia patents?
 11:17:18 6 A. I -- not that I am aware of.
 11:17:38 7 MR. YORKS: Okay. I have no further
 11:17:40 8 questions for this witness.
 11:17:42 9 MR. CUNNINGHAM: Okay. I just have a few.
 11:17:44 10 And this is Sean Cunningham again.
 11:17:46 11 I have got a box here --
 11:17:53 12 MR. YORKS: Wait. Sorry. I have one more
 11:17:54 13 question.
 11:17:55 14 MR. CUNNINGHAM: Okay. Go ahead.
 11:17:56 15 MR. YORKS: This relates to maybe
 11:17:57 16 authentication.
 11:17:59 17 Q. The prototype that you testified earlier,
 11:18:01 18 is it still around?
 11:18:05 19 A. You know, we -- I do not know. Terayon
 11:18:13 20 should have it. And I think I would say it was an
 11:18:15 21 acquisition, and we had an office in San Francisco.
 11:18:18 22 Where it is, I do not know. It just goes through
 11:18:21 23 that process.
 11:18:21 24 We were talking about, at the time when we
 11:18:23 25 finished with it, we should put -- encase in -- make

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11:19:35 1 years?
 11:19:35 2 A. Yes.
 11:19:42 3 Q. And these tapes include code from the
 11:19:44 4 Imedia prototype that we have been discussing today?
 11:19:47 5 A. Yes.
 11:19:52 6 Q. Why did you keep these tapes?
 11:19:55 7 A. I have each reel from my graduate school.
 11:20:03 8 I'm archiving all this work I do.
 11:20:03 9 Q. So you are a pack rat?
 11:20:06 10 A. Yeah, right. I have one storage house.
 11:20:08 11 All the stuff is there.
 11:20:17 12 MR. YORKS: All right. No further
 11:20:17 13 questions, then.
 11:20:25 14 EXAMINATION BY MR. CUNNINGHAM
 11:20:26 15 MR. CUNNINGHAM: Q. Okay. So I will just
 11:20:29 16 pick up where you left off. Would you please look
 11:20:34 17 in this box, Mr. Shen, and tell me what's in it?
 11:20:35 18 A. Archiving tapes and disks and a CD.
 11:20:39 19 Q. Where were these tapes found?
 11:20:40 20 A. Our garage.
 11:20:41 21 Q. Your garage?
 11:20:42 22 A. Yes.
 11:20:42 23 Q. What do they contain, just generally?
 11:20:45 24 A. It's a backup. It essentially is all
 11:20:48 25 backup of my other -- other than -- one is the

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<p>11:20:54 1 backup of the initial movie, burned on a wire. 11:20:57 2 Q. Burned on a wire? 11:20:59 3 A. Yeah. 11:20:59 4 Q. Okay. 11:20:59 5 A. And also one floppy disk is the decoder 11:21:04 6 chip we use in the device driver, the development 11:21:07 7 kit for the decoder chip. 11:21:10 8 Q. And did you provide all of these backup 11:21:13 9 tapes and disks to counsel for Motorola? 11:21:15 10 A. Yes, I did. 11:21:17 11 MR. CUNNINGHAM: Counsel, I will make 11:21:18 12 copies of this after the deposition, but take a look 11:21:20 13 at it. It's the chain-of-custody form. I just want 11:21:23 14 to show it to him and ask him a couple of questions. 11:21:40 15 And it bears my signature as of today. 11:21:43 16 MR. YORKS: Well, chain of custody -- oh, 11:21:46 17 from the time -- it starts at 2011? 11:21:53 18 MR. CUNNINGHAM: Yes. 11:21:53 19 MR. YORKS: And then what's the next 11:21:54 20 entry? 2000 -- 11:21:56 21 MR. CUNNINGHAM: That should be 2011 also. 11:21:58 22 MR. YORKS: So this is post-suit custody. 11:22:01 23 MR. CUNNINGHAM: Correct. 11:22:03 24 So let's mark this as Shen Exhibit 15, 11:22:05 25 please.</p>	<p>11:23:22 1 look as you like. 11:23:23 2 For the record, I just handed the box 11:23:25 3 across the table to counsel. 11:23:27 4 Can I proceed while you are doing that? 11:23:29 5 MR. YORKS: Sure. 11:23:31 6 MR. CUNNINGHAM: Okay. 11:23:31 7 Q. I want you to take a look at one other 11:23:33 8 document, Mr. Shen. This is -- was previously 11:23:36 9 marked at the deposition of Geoff Yang as 11:23:39 10 Exhibit 17, so that's how I am going to refer to it. 11:23:42 11 This is titled "Business Projections for 11:23:44 12 Imedia Corporation," dated January 1995. Do you see 11:23:47 13 that? 11:23:47 14 A. Yes. 11:23:48 15 Q. Did you have a role in preparing this 11:23:50 16 business projection? 11:23:51 17 A. Yes. 11:23:51 18 Q. You will see at the top of each page it 11:23:54 19 says, "Copy: IVP." Do you see that? 11:23:55 20 A. Yes. 11:23:56 21 Q. Is this a document that was provided to 11:23:58 22 IVP in the course of Imedia's exchange of materials 11:24:01 23 with IVP? 11:24:02 24 A. Yes. This -- I believe this likely would 11:24:08 25 be the one.</p>
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<p>11:22:05 1 (Deposition Exhibit 15 11:22:05 2 was marked for identification.) 11:22:18 3 MR. CUNNINGHAM: Q. Now, Mr. Shen, just 11:22:19 4 look at the first page there, the listing that's at 11:22:21 5 the top of the page. Can you verify that that's an 11:22:24 6 accurate high-level description of what's on these 11:22:26 7 backup tapes? 11:22:48 8 A. Yeah. 11:22:49 9 Q. Yes? 11:22:49 10 A. Yes. 11:22:50 11 Q. And to your knowledge, since you stored 11:22:57 12 these backup tapes in your garage, have they ever 11:23:00 13 moved from your garage since the time you stored 11:23:04 14 them there to the time that you handed them over to 11:23:07 15 Motorola's counsel? 11:23:08 16 A. I moved from one house to the next. 11:23:11 17 Q. Okay. 11:23:11 18 A. That's -- that's all. 11:23:12 19 Q. Okay. And you moved the tapes when you 11:23:14 20 moved? 11:23:14 21 A. Yes. 11:23:15 22 MR. CUNNINGHAM: All right. Okay. Thank 11:23:16 23 you. 11:23:18 24 MR. YORKS: Can I see the tapes? 11:23:19 25 MR. CUNNINGHAM: You can take as long a</p>	<p>11:24:09 1 MR. CUNNINGHAM: Okay. Those are all the 11:24:11 2 questions I have. 11:24:12 3 MR. YORKS: Follow-up questions, now that 11:24:14 4 we have these tapes. 11:24:15 5 EXAMINATION BY MR. YORKS 11:24:24 6 MR. YORKS: Q. How do you know that these 11:24:25 7 are code from the '94-'95 time period? 11:24:30 8 A. Let me -- this is not code. I put a 11:24:36 9 notation on it. This is burned-on-a-wire tape, 11:24:40 10 specific time interval. 11:24:43 11 Q. What is burned on a wire? You mean a 11:24:45 12 movie? 11:24:46 13 A. Movie, yes. This is the content. So all 11:24:48 14 the tape, I put a notation on it what this tape is 11:24:54 15 backup as. 11:24:55 16 Q. Oh, maybe I misunderstood. Is any of the 11:24:58 17 code, software code -- 11:24:59 18 A. One of them -- 11:25:00 19 Q. Let me finish. 11:25:01 20 Is any of the software code for the 11:25:03 21 prototype that we have been discussing for the 11:25:05 22 virtual VCR in these tapes or disks? 11:25:11 23 A. I believe so. 11:25:15 24 Q. What do you mean, you believe so? 11:25:17 25 A. It has a complete backup.</p>

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